

REMARKS

I. Status of the Claims

Claims 2-9 are pending in this application. Claim 1 was previously cancelled.

Claims 6-9 have been withdrawn from consideration by the Office, as being drawn to non-elected subject matter. Claims 2-5 are under consideration and have been amended to delete the term "pro-drug". Claims 2 and 3 have been further amended to more precisely define the scope of Applicants' invention and to render claim 3 dependent on claim 2. Support for such amendments can be found in the specification and in the originally filed claims. Accordingly, no new matter is added by these amendments to the claims and Applicants respectfully request that they be entered.

II. Restriction Requirement

The Office has maintained the restriction and election requirements. Applicants continue to traverse the restriction requirement for the reasons of record. In order to advance prosecution, Applicants, however, acknowledge the Examiner's withdrawal of claims 6-9 from further consideration at this time.

III. Claim Rejection Under 35 USC § 102

Claims 2-5 have been rejected under 35 USC § 102(b) as allegedly anticipated by *Aoki, et al.* (U.S. Patent No. 4,795,484 (1989)). Applicants respectfully disagree with and traverse this rejection for at least the following reason. The Examiner asserts that "[a]pplicants claims relate to compound of Formula (I) in claim 1. Aoki discloses compounds that anticipate the instantly claimed genus wherein: R and R1 are optionally substituted phenyl; R2 is hydrogen; and R3 is benzyl. (see Aoki, claim 1, column 12, CAS RN 88838-62-4)." (Office Action, page 8, lines 9-13). The Examiner's

statement refers to the “compound of Formula (I) in claim 1.” Since claim 1 was previously cancelled by Applicants, the Examiner’s statement is misplaced. With respect to Applicants’ independent compound claim 2, the Examiner’s statements are not applicable as claim 2 recites different substituent definitions than claim 1. In an attempt to expedite prosecution, Applicants have considered the identified teachings of *Aoki et al.* against the compound claims currently pending. The Examiner cites to the compounds of *Aoki et al.* found in claim 1, at column 12, in which R⁴ can be hydrogen and R⁵ phenyl, but notably not benzyl. The R⁴ and R⁵ moieties in the compounds of *Aoki et al.* are believed to correspond to R₂ and R₃, respectively, in Applicants’ claimed compounds. In Applicants’ claim 2, R₂ can be hydrogen, but not phenyl, and R₃ can be neither hydrogen nor phenyl. Thus, the compounds of *Aoki et al.* cited by the Examiner, in which R⁴ is hydrogen and R⁵ is phenyl, do not anticipate the presently claimed compounds. Accordingly, the cited reference fails to teach all the claim elements and as such, fails to anticipate the presently claimed invention.

For at least the above reason, Applicants respectfully request withdrawal of the rejection as to claims 2-5 under 35 USC § 102(b).

IV. Claim Rejection Under 35 USC § 112

Claims 2-5 have also been rejected under 35 USC § 112, first paragraph as allegedly failing to comply with the written description requirement. The Examiner asserts that the term “prodrug,” as used in claims 2-5, is indefinite. Applicants disagree with the Examiner’s assertion; however, in an effort to expedite prosecution, Applicants have amended claims 2-5 to remove the term prodrug so as to place these claims in condition for allowance.

Accordingly, this rejection is moot. Applicants therefore respectfully request withdrawal of the 35 USC § 112, first paragraph rejection as to claims 2-5.

V. Conclusion

Applicants respectfully submit that the foregoing amendments and remarks have placed claims 2-5 in condition for allowance. Accordingly, Applicants respectfully request reconsideration of this application and the timely allowance of pending claims 2-5.

Please grant any extensions of time required to enter this response and if there is any fee due in connection with the filing of this Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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